

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 7106**

**BILL NUMBER:** SB 496

**NOTE PREPARED:** Jan 16, 2013

**BILL AMENDED:**

**SUBJECT:** Control of Ephedrine and Pseudoephedrine.

**FIRST AUTHOR:** Sen. Yoder

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Methamphetamine Manufacturer Registry*- The bill requires the Indiana State Police Department (ISP) to establish and maintain the Indiana Methamphetamine Manufacturer Registry, an electronic data base containing information relating to persons who have been convicted of certain offenses involving the manufacture of methamphetamine. The bill requires the Division of State Court Administration (DSCA) to provide advice and assistance to the ISP concerning data collection for the methamphetamine registry.

*Selling of Ephedrine*- The bill specifies that ephedrine or pseudoephedrine: (1) may be sold only by a pharmacy (including a retailer containing a pharmacy); and (2) may not be sold in a convenience package. The bill provides that: (1) a pharmacy may not sell more than 72 grams of ephedrine or pseudoephedrine to an individual in a 365-day period; and (2) an individual may not purchase more than 72 grams of ephedrine or pseudoephedrine in a 365-day period.

*Penalty Provision*- The bill prohibits a person convicted of a methamphetamine offense from possessing ephedrine, pseudoephedrine, or phenylpropanolamine within seven years of the person's conviction, unless dispensed under a prescription. The bill increases the penalty for furnishing methamphetamine precursors to another person with knowledge that the recipient will use the precursors to manufacture controlled substance if the person furnishes more than 10 grams of certain precursors.

**Effective Date:** July 1, 2013.

**Explanation of State Expenditures:** *Methamphetamine Manufacturer Registry*- The production of a registry by the ISP is estimated to cost \$672,700 in the first year of implementation. The cost estimates include the

following.

| <b>Table. First Year Implementation Cost for Database Registry</b>                      |                       |
|---|-----------------------|
| <b>Item</b>   | <b>Estimated Cost</b> |
| Database Implementation (including hardware, software, training, and photography costs) | \$418,000             |
| New Staff to Operate the Registry (including benefits)                                  | \$244,900             |
| Other Items (including office furniture, computer)                                      | \$9,800               |
| <b>TOTAL</b>  | <b>\$672,700</b>      |

Ongoing costs are estimated at \$328,000 annually. The ongoing costs would include salaries for staff and database maintenance costs.

The Division of State Court Administration (DSCA) would be charged to assist and advise the ISP with data collection for the database registry. It is likely the DSCA would be able to assist and advise the ISP within existing resources.

*Penalty Provision-* Under current law, a person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or intent that the recipient will use the reagent or precursor to manufacture a controlled substance commits a Class D felony. This provision would increase the D felony to a C felony if the person sells, transfers, distributes, or furnishes more than 10 grams of ephedrine, pseudoephedrine, or phenylpropanolamine. Additionally, the bill would establish a new D felony for having possession of methamphetamine within seven years of a prior conviction for a methamphetamine offense.

State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. A Class D felony is punishable by a prison term ranging between 6 months and 3 years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from 2 to 8 years. More offenders could mean increased costs to the Department of Correction (DOC). The average expenditure to house an adult offender was \$18,582 in FY 2012. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the incremental cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$78,318 in FY 2012. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately 2 years, and for Class D felony offenders, approximately 10 months.

*Selling of Ephedrine-* The bill would allow only pharmacies to sell over-the-counter products containing ephedrine or pseudoephedrine. (Current law allows all retailers to do so, including groceries, merchandise stores, drug stores, and other similar establishments.) Additional violations of this provision constitute a Class C misdemeanor (Class A misdemeanor with a prior conviction). However, it is likely the number of offenders would be low.

**Explanation of State Revenues:** *Penalty Provision-* Criminal fines and court fees are the same for either Class D or C felonies. The maximum fine is \$10,000. Criminal fines are deposited into the Common School Fund. The bill also increases D felony “neglect of a dependent” to a C felony, if the neglect is committed in a location where there is the delivery, financing, or manufacture of methamphetamine. The bill also adds a new D felony.

Therefore, aggregate court fees and fines would likely increase. Court fees are placed in the state General Fund.

**Explanation of Local Expenditures:** *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase.

**Explanation of Local Revenues:** *Penalty Provision-* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. The bill also increases D felony “neglect of a dependent” to a C felony, if the neglect is committed in a location where there is the delivery, financing, or manufacture of methamphetamine. Therefore, aggregate court fees and fines that apply to local revenues may increase.

**State Agencies Affected:** Indiana State Police; Division of State Court Administration; Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs’ Association; Department of Correction; Indiana State Police.

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